

## **REGULATION 2 - 6**

### **USE OF BUSINESS ALLOCATION PERCENTAGE**

In the absence of actual records to separate the accounting thereof, a business entity may, but is not obliged to, use the formula set forth in this Regulation to compute the percentage of its entire net profit (derived from activities both within and outside the City of Tiffin) which is taxable under the Ordinance, and to determine the tax payable to the City of Tiffin hereunder.

If the taxpayer did not have a place of business outside the City of Tiffin during the period covered by any declaration and/or return required under the Ordinance, its business allocation percentage is 100 percent; in other words, the taxpayer is required to pay a tax as provided in Regulation 1 - 1(P) on the entire net profit of the business.

If the taxpayer had a place or places of business outside the City of Tiffin and was doing business in Tiffin during such period, the business allocation percentage shall be computed on the basis of each of the three following factors as may be applicable to the particular business activity:

(a) Real and tangible property within and without the City of Tiffin; (b) Business receipts within and without the City of Tiffin; and (C) Payrolls within and without the City of Tiffin.

The business allocation percentage is computed by determining the percentages (a) which real and tangible personal property located in the City of Tiffin bears to all real and tangible personal property (including that situated in the City of Tiffin) of taxpayer wheresoever situated; (b) which business sales in the City of Tiffin bear to taxpayer's entire business sales derived (including those derived from the City of Tiffin); and which payrolls paid by

taxpayer within the City of Tiffin bear to taxpayer's entire payroll wheresoever paid (including the City of Tiffin payrolls); adding together the three percentages so arrived at, and dividing the total by three.

However, if one of the factors (property, sales or payrolls) is missing, the other two percentages are added and the sum is divided by two, and if two of the factors are missing the remaining percentage is the business allocation percentage. A factor is not to be deemed missing merely because all property, or the expenditures of the taxpayer for payrolls or the gross sales of the taxpayer, are found to be situated, incurred or received either entirely within or entirely without, the City of Tiffin.

#### **EXAMPLE 1:**

Corporation having places of business in Tiffin, Detroit and Cleveland. Tiffin real and tangible personal property \$10,000. All real and tangible property (Tiffin, Detroit and Cleveland). \$100,000. Percentage: 10%. Tiffin sales \$15,000. All sales \$75,000. Percentage: 20%. Tiffin payroll \$6,000. All payroll \$20,000. Percentage: 30%. Business allocation percentage: 10% plus 20% plus 30% 3 equals 20%

#### **EXAMPLE 2:**

Same corporation owning no real or tangible personal property anywhere. Tiffin sales \$15,000; all sales \$75,000; (percentage: 20%) Tiffin payroll \$6,000; all payroll \$20,000; percentage: 30%. Business allocation percentage:

20% plus 30% 2 equals 25%

#### **EXAMPLE 3:**

Same corporation owning real and tangible personal property in

Tiffin valued at \$10,000 and owning no real or tangible personal property outside Tiffin. Other factors same as in examples 1 and 2.

Business allocation percentage: 100% plus 20% plus 30% 3 equals 50%

After determining such business allocation percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer, wherever derived (thus arriving at the taxable net profit), and computing the tax as provided in Regulation 1 - 1 (P), tax on the resultant taxable net profit.

In case it shall appear to the Commissioner of Taxation that any activity, business, income or capital of the taxpayer is improperly or inaccurately reflected, the Commissioner of Taxation may adjust items of income, deductions, and capital, and disregard assets in computing any allocation percentage.

#### 1. Explanation of "Property" factor.

The percentage of the taxpayer's real and tangible personal property within the City of Tiffin is determined by dividing the net book value (during the period covered by the report) of such property within the City of Tiffin, without deduction of any encumbrances, by the average net book value similarly computed of all such property within and without the City of Tiffin. Only property owned by the taxpayer is considered in determining such percentage.

#### 2. Explanation of "Business Receipts" factor.

"Business Receipts" means ascertaining the percentage which the gross sales of the taxpayer within the City of Tiffin, plus the gross credits or charges for the work done and performed or services rendered in the City of Tiffin bears to the total gross sales wherever made, plus the total gross credits or charges for work

done and performed or services rendered. "Within the City" sales shall be deemed to include:

(A) Work done and performed or services rendered in the City of Tiffin.

(B) Rentals from property situated in the City of Tiffin, where the rental of such property is a usual or normal part of the taxpayer's business activity.

(C) All other business receipts earned in the City of Tiffin. For the purpose of determining business allocation percentage, no account shall be given to receipts, within or without the City of Tiffin, of income derived from intangibles (including stocks, bonds, royalties and the like), the income of which is taxable under the statutes of the State of Ohio.

(D) Compensation and other receipts from work done or services rendered within the City of Tiffin are allocated to the City of Tiffin and taxable under the Ordinance. All amounts so received, credited or charged by a taxpayer in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of the taxpayer, by sub-contractor or by any other persons. It is immaterial where such amounts were payable or where they were received.

(E) Commissions or fees received by the taxpayer are allocated to the City of Tiffin if the service for which the commissions or fees were paid were performed in the City of Tiffin. If the taxpayer's services for which commissions or fees were paid were performed for the taxpayer by salesmen or other agents or employees attached to or working out of a place of business of the taxpayer within the City of Tiffin, the taxpayer's services will be deemed to have been performed in the City of Tiffin.

(F) Where a lump sum is received by the taxpayer in payment for services within and without the City of Tiffin, the amount attributable to services within the City of Tiffin is to be determined on the basis of the relative values of, or amounts of time spent in the performance of, such services within and without the City of Tiffin.

(G) Other business receipts from the sale of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allocable to the City of Tiffin if the real property was situated in the City of Tiffin. Receipts from sales of intangibles included in business capital, held by the taxpayer as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to the City of Tiffin if the sales were made in the City of Tiffin or through a regular place of business of the taxpayer in the City of Tiffin.

All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method of accounting used in the computation of the taxpayer's entire net income) must be taken into account.

### 3. Explanation of "Payroll" factor.

"Payrolls" means the total wages, salaries, and other personal service compensation exclusive of compensation of general executive officers.

The percentage of the taxpayer's payroll allocable to the City of Tiffin is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees (except general executive officer, as defined below) within the City of

Tiffin during the period covered by the report, by the total amount of compensation of all taxpayer's employees (except general executive officers) during such period.

Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

Employees within the City of Tiffin include all employees regularly connected with or working out of a place of business maintained by the taxpayer in the City of Tiffin, irrespective of where the services of such employee were performed. However, if the taxpayer establishes to the satisfaction of the Commissioner of Taxation that because of the fact that a substantial part of its payroll was paid to employees attached to a place of business in the City of Tiffin who performed a substantial part of their services outside the City of Tiffin, the computation of the payroll factor according to the general rule stated above would not produce an equitable result, then the Commissioner of Taxation may, in his discretion, permit the payroll factor to be computed on the basis of the amount of compensation paid for services rendered within and without the City of Tiffin. On the other hand, wherever it appears that, because a substantial part of the taxpayer's payroll was paid to employees attached to places of business outside the City of Tiffin who performed a substantial part of their services within the City of Tiffin, the computation of the payroll factor according to the general rule would not properly reflect the amount of the taxpayer's business done within the City of Tiffin by its employees, the Commissioner of Taxation may require the payroll factor to be computed on the basis of the amount of compensation paid for services performed within and without the City of Tiffin. In any such case, where an employee performed services both within and without the City of Tiffin, the amount treated as compensation for services performed within the City of Tiffin shall be deemed to be (a) in the case of an employee whose compensation depends

directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City of Tiffin; (b) in the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within the City of Tiffin bears to the value of all his services; and (c) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in the City of Tiffin bears to the total working time.

Personal service compensation paid to general executive officers of the taxpayer for acting as such should not be included in the computation of the payroll factor. General executive officers include the chairman, president, vice president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, director and any other officer charged with and performing general executive duties of the corporation. In the case of unincorporated entities, an executive officer shall be deemed to be a partner, co-owner, proprietor or other active participant in the profit of the enterprise. An executive officer whose duties or services are primarily restricted to one place of business of the taxpayer, whether within or without the City of Tiffin, is not a general executive officer for the purpose of this Regulation.

#### 4. Adjustment of business allocation percentage formula.

Generally, the formula will result in a fair apportionment of the taxpayer's net profits within and without the City of Tiffin. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases or result in a tax avoidance in others, and thus not do justice to the taxpayer or the City of Tiffin. Accordingly, in such cases, the Commissioner of Taxation may substitute factors calculated to bring about a fair and

proper allocation in any case where the taxpayer has chosen to use the business allocation percentage formula.